

§ 1950.104 Borrower owing FmHA or its successor agency under Public Law 103-354 loans which are secured by real estate.

County Supervisors, to the greatest extent possible, should keep themselves informed of the plans of borrowers with FmHA or its successor agency under Public Law 103-354 loans secured by real estate who may enter the armed forces. They should encourage any borrower who is definitely entering the armed forces to consult with them before the borrower's military service begins concerning the most advantageous arrangements that can be made regarding the security. County Supervisors will assist these borrowers in working out mutually satisfactory arrangements. Borrowers who owe FO, SW, RL, OL, EE, EM, SL, EO, ST, and/or RHF loans and who are delinquent or otherwise in default must be sent exhibit A and the appropriate attachments, as outlined in subpart S of part 1951 of this chapter. The County Supervisor will follow the directions in subpart A of part 1965 of this chapter for liquidating real estate security. FO, SW, RL, OL, EE, EM, SL, EO, ST and/or RHF borrowers who are not delinquent will have their accounts handled as set out in the following paragraphs.

(a) *Power of attorney.* Borrowers entering the armed forces who retain ownership of the security should be encouraged to execute a power of attorney authorizing the person of their choice to take any actions necessary to insure proper use and maintenance of the security, payment of insurance and taxes, and repayment of the loan. No FmHA or its successor agency under Public Law 103-354 employee will act as attorney-in-fact for a borrower. The State Director will consult with OGC concerning any limitations upon the use of a power of attorney under local law and the circumstances under which the power of attorney should be exercised. In general, either spouse may act as attorney-in-fact for the other spouse, but, in a few States, a spouse cannot exercise the power of attorney in connection with a sale or encumbrance of the homestead. In a majority of States, a power of attorney is revoked by the death of a person granting the power, but, in some States, the

power of attorney executed by a person in the armed services remains valid until actual notice is received of the death of the person granting the power. A power of attorney should not be used in conveying title to the farm except in those States where the power is good until actual notice of death. The State Director will request OGC to prepare a satisfactory form of power of attorney which may be duplicated in the State Office and furnished to County Supervisors with a State supplement concerning its use.

(b) *Borrower retains ownership of the security.* When a borrower retains ownership of the security, FmHA or its successor agency under Public Law 103-354 will assist in making arrangements for the use of the security which will protect the interests of both the Government and the borrower.

(1) *Leasing.* It will be more satisfactory if the security is leased under a written lease in accordance with equitable leasing policies and applicable FmHA or its successor agency under Public Law 103-354 procedures. The borrower should make arrangements for the rental income to be used for regular payments on the loan in order to avoid the accumulation of unpaid interest. The borrower also should make arrangements for the payment of taxes and insurance and maintenance of the security to avoid having these charges paid by the Government and then charged to the account. It would be desirable to provide that the lease will continue for the duration of the borrower's military service unless either party gives written notice of earlier cancellation of the lease.

(2) *Operation by family.* When a borrower wishes to have the farm occupied and operated by family members or relatives without a written lease, the County Supervisor should advise the borrower as to whether or not the proposed arrangements will be in the best interests of the borrower and the Government. When the farm is to be operated by relatives, the hazards and disadvantages to the borrower and the Government which are inherent in unwritten contracts will be discussed, and every effort will be made to induce the

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borrower to enter into formal contractual arrangements whenever possible to do so.

(c) *Borrower does not retain ownership of the security.* The security may be transferred to another approved applicant or sold in accordance with applicable procedure.

(d) *Borrower abandons the security or fails to make satisfactory arrangements.* This paragraph does *not* apply to borrowers with FO, SW, RL, OL, EE, EM, SL, EO, ST and/or RHF loans. Those borrowers should be sent exhibit A and the appropriate attachments as outlined in subpart S of part 1951 of this chapter. When a borrower abandons the security or fails to make satisfactory arrangements for maintenance of the security and payment of taxes, insurance, and installments on the loan, the County Supervisor will send a complete report on the case to the State Director. The report will include all the information that can be obtained regarding the borrower's plans for the security and any evidence to indicate that abandonment has, in fact, taken place. In these instances, it must be recognized that the borrower may have entered into verbal arrangements for the care of the security without properly advising the County Supervisor. Whether such cases may be construed to be in violation of the provisions of the mortgage, so as to support foreclosure by order of the Court under the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, will need to be determined on an individual case basis by the State Director and OGC. Clear-cut abandonment cases or instances in which the borrower fails to take action to transfer or sell the property, while evidencing no interest in it or desire to retain it, will be processed in accordance with applicable procedures.

(e) *Statement of account.* Borrowers entering the armed forces who retain ownership of the security will be requested to designate mailing addresses for the delivery of statements of account. Any changes in addresses will be processed on Form FmHA or its successor agency under Public Law 103-354 450-10 with appropriate explanations.

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7 CFR Ch. XVIII (1-1-11 Edition)

§ 1950.105 Interest rate.

(a) The Soldiers and Sailors Relief Act requires that the effective interest rate charged a borrower who enters active military duty after a loan is closed will not exceed 6 percent. This applies only to full-time active military duty and does not include military reserve status or National Guard participation.

(b) As soon as the County Supervisor verifies that a borrower is on active duty, the County Supervisor will send the borrower a letter which states that the interest rate on the borrower's FmHA or its successor agency under Public Law 103-354 loans will not exceed 6 percent. At the same time, the County Supervisor will send the Finance Office a memorandum which states that the borrower is on active duty and that interest of not more than 6 percent should accrue on the borrower's loans, effective as of the date of the memorandum or as of the date of the last payment, whichever is later, until further notice. If a borrower's interest rate on any loan is less than 6 percent, the loan will continue to accrue interest at the lower rate. The assistance under this section may not be retroactively applied.

(c) As soon as the County Supervisor verifies that a borrower is no longer on active duty, the County Supervisor will send the Finance Office a memorandum advising them to terminate the 6 percent interest rate. The rate will revert to the note rate (or the payment assistance rate), effective with the next scheduled payment. The 6 percent interest rate will not be cancelled retroactively.

(d) Additional directions for handling Single Family Housing Loans are contained in 7 CFR part 3550.

[52 FR 26134, July 13, 1987, as amended at 60 FR 55122, Oct. 27, 1995; 67 FR 78329, Dec. 24, 2002]

PART 1951—SERVICING AND COLLECTIONS

Subpart A—Account Servicing Policies

Sec.

1951.1 Purpose.

1951.2 Policy.

1951.3 Authorities and responsibilities.

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